

AMENDED IN SENATE MARCH 28, 2000

SENATE BILL

No. 1777

Introduced by Senator ~~Johnston~~ **Burton**

February 23, 2000

~~An act to amend Section 6907 of the Revenue and Taxation Code, relating to taxation. An act to add Sections 6357.7 and 7102.5 to, and to add Chapter 2.8 (commencing with Section 23481) to Part 11 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1777, as amended, ~~Johnston~~ **Burton**. Sales and Use Tax: ~~overpayments: interest~~ use taxes: bank and corporation taxes: motor vehicle fuels.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for fuel and petroleum products used in connection with international flight.

Existing law authorizes cities, counties, and cities and counties to impose local sales and use taxes or transactions and use taxes, and provides that exemptions from state sales and use tax are incorporated into those local taxes.

This bill would additionally exempt specified motor vehicle fuels from that tax imposed at the 5% state rate. This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

The Bank and Corporation Tax Law imposes a tax measured by income on every corporation doing business in, or deriving income from, this state.

This bill would additionally impose a tax on petroleum windfall profits, at a rate established by the Franchise Tax Board, based on specified estimates made by the State Board of Equalization, with the revenues therefrom to be deposited in the Petroleum Windfall Profits Fund, which the bill would create.

The bill would require that the Controller transfer specified amounts from the Petroleum Windfall Profits Fund to the Public Transportation Account equal to the revenue that account would have received in the absence of the sales and use tax exemption created by this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

~~Existing law requires that interest on any overpayment of sales and use taxes be paid from the first day of the calendar month following the month for which the overpayment was made.~~

~~This bill would make a technical nonsubstantive change to that provision.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 6907 of the Revenue and~~
- 2 *SECTION 1. Section 6357.7 is added to the Revenue*
- 3 *and Taxation Code, to read:*
- 4 *6357.7. (a) There are exempted from the taxes*
- 5 *imposed by this part at the 5-percent rate for General*
- 6 *Fund purposes, the gross receipts from the sale in this*
- 7 *state of, and the storage, use, or other consumption in this*
- 8 *state of, motor vehicle fuel, as defined in Section 7304, fuel*
- 9 *as defined in Section 8604, diesel fuel, as defined in*
- 10 *Section 60022, or blended diesel fuel, as defined in Section*
- 11 *60023.*
- 12 *(b) Notwithstanding any provision of the*
- 13 *Bradley-Burns Uniform Local Sales and Use Tax Law*

1 (Part 1.5 (commencing with Section 7200)) or the
2 Transactions and Use Tax Law (Part 1.6 (commencing
3 with Section 7251)), the exemption established by this
4 section shall not apply with respect to any tax levied by
5 a county, city, or district pursuant to, or in accordance
6 with, either of those laws.

7 SEC. 2. Section 7102.5 is added to the Revenue and
8 Taxation Code, to read:

9 7102.5. (a) The Controller shall transfer from the
10 Petroleum Windfall Profits Fund, created in Section
11 23481, to the Public Transportation Account in the State
12 Transportation Fund, an amount equal to the revenue
13 that would have been received by the Public
14 Transportation Account pursuant to subdivision (a) of
15 Section 7102 if motor vehicle fuel had not been exempt
16 from sales and use taxes.

17 (b) The Controller shall transfer the balance of the
18 Petroleum Windfall Profits Fund, after the transfer
19 provided in subdivision (a), to the General Fund.

20 (c) For purposes of this section, “motor vehicle fuel”
21 means motor vehicle fuel, as defined in Section 7304, fuel,
22 as defined in Section 8604, diesel fuel, as defined in
23 Section 60022, or blended diesel fuel, as defined in Section
24 60023.

25 (d) The State Board of Equalization, with the
26 concurrence of the Director of Finance, shall estimate
27 each amount to be transferred.

28 SEC. 3. Chapter 2.8 (commencing with Section
29 23481) is added to Part 11 of the Revenue and Taxation
30 Code, to read:

31
32 CHAPTER 2.8. PETROLEUM WINDFALL PROFITS TAX
33

34 23481. (a) In addition to the tax imposed pursuant to
35 Chapter 2 (commencing with Section 23101), there shall
36 be imposed a Petroleum Windfall Profits Tax on gross
37 receipts, described in subdivision (e) of Section 25120,
38 from sales in California by any taxpayer that is engaged
39 in petroleum refining (described in sector 324110 of the

1 North American Industry Classification System (NAICS)
2 from and after May 1, 2000.

3 (b) The rate of tax shall be set annually by the
4 Franchise Tax Board at a rate estimated to produce an
5 amount of revenue with respect to gross receipts in
6 California during the calendar year that is equal to the
7 sum of (1) the total amount of sales and use tax revenue,
8 as estimated by the State Board of Equalization, which
9 would have been received if the exemption from sales
10 and use taxes for motor vehicle fuel provided for in
11 Section 6357.7 had not been enacted, (2) that portion, if
12 any, of the exemption from sales and use taxes for motor
13 vehicle fuel provided for in Section 6357.7 that is not
14 passed on to consumers, and (3) that portion, if any, of the
15 tax imposed pursuant to this section estimated by the
16 State Board of Equalization to be passed on by taxpayers
17 to consumers in the form of increased pump prices for
18 motor vehicle fuel.

19 (c) The tax imposed pursuant to this section shall be
20 imposed and collected in the same manner as the taxes
21 imposed pursuant to Chapter 2 (commencing with
22 Section 23101).

23 (d) Revenue derived from the tax imposed pursuant
24 to this section shall be deposited in the Petroleum
25 Windfall Profits Fund, which is hereby created in the
26 State Treasury.

27 SEC. 4. This act provides for a tax levy within the
28 meaning of Article IV of the Constitution and shall go into
29 immediate effect. However, the provisions of this act shall
30 become operative on the 15th day after the effective date
31 of this act.

32 ~~Taxation Code is amended to read:~~

33 ~~6907. Interest shall be paid upon any overpayment of~~
34 ~~any amount of tax at the modified adjusted rate per~~
35 ~~month established pursuant to Section 6591.5, from the~~
36 ~~first day of the calendar month following the month~~
37 ~~during which the overpayment was made. In addition, a~~
38 ~~refund or credit shall be made of any interest imposed~~
39 ~~upon the person making the overpayment with respect~~
40 ~~to the amount being refunded or credited.~~

1 The interest shall be paid as follows:

2 (a) ~~In the case of a refund, to the last day of the~~
3 ~~calendar month following the date upon which the~~
4 ~~person making the overpayment, if he or she has not~~
5 ~~already filed a claim, is notified by the board that a claim~~
6 ~~may be filed or the date upon which the claim is approved~~
7 ~~by the board, whichever date is the earlier.~~

8 (b) ~~In the case of a credit, to the same date as that to~~
9 ~~which interest is computed on the tax or amount against~~
10 ~~which the credit is applied.~~

